

Chapter CCLX.¹

DIVISION OF THE QUESTION FOR VOTING.

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3163. A resolution may be divided if it contains more than one section which standing alone would constitute a substantive proposition.

Instance wherein references to a colleague in an extension of remarks were held to give rise to a question of privilege.

Language not used in debate and inserted without leave was by resolution stricken from the Record.

On September 11, 1919,² Mr. Otis Wingo, of Arkansas, rising to a question of privilege offered the following resolution:

Where as in the record of the proceedings of the House of Representatives of September 5, 1919, as the same appears in the Congressional Record, on pages 4942 and 4943, there appears in the remarks of the gentleman from Pennsylvania, Mr. Dewalt, what purport to be statements made by the gentleman from Texas, Mr. Blanton, as follows, to wit:

“He is mad because I will not permit him to ruthlessly waste and misappropriate the people’s money from the Treasury.

“I ask the Chair to keep the gentleman in order without forcing me to continually interrupt him. If he were not protected under the rules of this House, as construed by the present occupant of the chair, he would not dare to thus abuse me. He is now applauded by Members who have in their pockets private bills seeking to take public money out of the Treasury and put it into the pockets of private individuals and corporations without argument and without proper consideration, and they are all mad because I blocked the proceedings. The gentleman from Pennsylvania, Mr. Dewalt, imagines that he will injure me with my constituents. He does not know west Texas. They will size up his bunk, and in the next election I will get 10 votes to very 1 he gets.

“The gentleman’s statement is untrue. He is mad because I have forced him to come to the House of Representatives occasionally.

“Against such childish abuse repeatedly continued in violation of the chair’s ruling and the rules of this House. The gentleman knows he is not stating the truth, for it was only by such objections that I prevented numerous pernicious and unmeritorious measures from passing, which angered certain friends of such legislation.

¹Supplementary of chapter CXXX.

²First session Sixty-sixth Congress, Record, p. 5259.

"Falsely and wrongly. When he knows he is not stating the truth.

"The gentleman is maliciously and willfully abusing me personally, when he would not dare do it off the floor of the House, and is willfully violating the rules of the House."

And

Whereas the said statements were not, as a matter of fact, made by the gentleman from Texas, Mr. Blanton, upon the floor but were by him without the knowledge of the gentleman from Pennsylvania, Mr. Dewalt, and without the leave of the House, inserted by interlining the typewritten copy of the stenographer's notes furnished to the Government Printing Office; and

Whereas the greater part of said statements so injected were unparliamentary, out of order, and a violation of the privileges of the House; and if the same had been uttered upon the floor of the House would have been subject to a point of order: Now, therefore, be it

Resolved by the House of Representatives—

First. That it condemns the said falsification of the records of its proceedings;

and Second. That the said remarks of the gentleman from Texas, Mr. Blanton, be stricken from the Record.

The Speaker¹ held the resolution to present a matter of privilege and recognized Mr. Wingo for debate.

Debate having been concluded, and the previous question being ordered, Mr. Warren Gard, of Ohio, demanded a separate vote on the subdivisions of the resolution. Mr. Nicholas Longworth, of Ohio, made the point of order that the resolution was not divisible.

The Speaker overruled the point of order and held:

This resolution is fairly divisible. It presents two separate questions, each of which by itself would offer a distinct subject on which the House could vote, and that the House can properly have a division. Therefore the vote will come on the first proposition, which, without objection, the Clerk will report.

The question being taken severally on the two branches of the resolution, both were agreed to without division.

So the language was ordered stricken from the Record.

3164. A question may be divided for the vote if it contains more than one substantive proposition.

A question that is divisible may be divided for the vote on the demand of any Member.

Propositions to elect members of standing committees and special orders reported by the Committee on Rules are exceptions and are not divisible.

Form and history of section 6 of Rule XVI.²

Section 6 of Rule XVI provides:

On the demand of any Member, before the question is put, a question shall be divided if it includes propositions so distinct in substance that one being taken away a substantive proposition shall remain: *Provided*, That any motion or resolution to elect members of any portion of the members of the standing committees of the House, and the joint standing committees, shall not be divisible, nor shall any resolution or order reported by the Committee on Rules, providing a special order of business, be divisible.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² Hind's Precedents, V. 6107.

The first clause of this rule is the form agreed to in the revision of 1980.¹ It was taken with no material change from the old rule, No. 46, which existed at that time.

The rule for the division of the question is older than the House itself. The Continental Congress had this rule:²

If a question in debate contain several points, any Member may have the same divided.

When the first rules of the House were adopted, on April 7, 1789,³ the rule took this form:

Any Member may call for a division of the question where the sense will admit of it.

As this rule was construed, its working was not wholly satisfactory, as a division of the question would be made in cases where, if the first portion should be decided in the negative, the second portion would have to be abandoned because it would not be, alone, a substitute proposition. Thus on March 27, 1792,⁴ on a resolution calling for an inquiry into the defeat of General St. Clair, a division of the question was called for, and it was put first on the first clause, which was—

Resolved, That the President of the United States be requested to institute an inquiry into the causes of the late defeat of the Army under the command of major General St. Clair.

This was decided in the negative. Then of course there would be no object in voting on the remainder: “and also into the causes of the detentions or delays which are suggested to have attended,” etc.; and the House simply abandoned the latter portion.

Undoubtedly to remedy this awkward practice, the House on March 13, 1822,⁵ adopted this rule:

Any Member may call for a division of the question, which shall be divided if it comprehends questions so distinct that one being taken away the rest may stand entire for the decision of the House.

On September 15, 1837,⁶ the House discarded this rule and adopted the form which, with no material change, became in 1880 the first clause of the present rule. The rule was continued in this form until April 2, 1917,⁷ when the first clause of the proviso was added to supplement the change in the rules providing for the election of committees.

The last clause of the proviso was adopted, May 3, 1933,⁸ to facilitate the consideration of special orders reported from the Committee on Rules.

3165. Although a question presents two propositions grammatically, it is not divisible if either does not constitute a substantive proposition when considered alone.

¹ Second session Forty-sixth Congress, Record, p. 206.

² See Journal of Continental Congress, May 26, 1778.

³ First session First Congress, Journal, p. 9.

⁴ First session Second Congress, Journal, p. 551.

⁵ First session Seventeenth Congress, Journal, p. 350.

⁶ First session Twenty-fifth Congress, Congressional Globe, p. 34.

⁷ First session Sixty-fifth Congress, Record, p. 113.

⁸ First session Seventy-third Congress, Record p. 2816.

On January 18, 1919,¹ the Committee of the Whole House on the state of the Union reported to the House the legislative, executive, and judicial appropriation bill with certain amendments.

Mr. Martin B. Madden, of Illinois, requested a separate vote on the following amendment reported by the Committee of the Whole:

Clerk hire, Members and Delegates: For clerk hire each Member, Delegate, and Resident Commissioner for clerk hire necessarily employed by him in the discharge of his official and representative duties, \$3,200 per annum, in monthly installments \$1,408,000, or so much thereof as may be necessary: *Provided*, That no part thereof shall be paid to any Member, Delegate, or Resident Commissioner.

Mr. Thomas U. Sisson, of Mississippi, demanded a separate vote on the proviso.

Mr. James R. Mann, of Illinois, submitted that the proposition was not susceptible of division and said:

Mr. Speaker, the rule is that on demand of any Member before the question is put the question shall be divided if it includes propositions so distinct in substance that if one be taken away a substantive proposition shall remain. My recollection is that this must apply to each of the propositions, that either one being taken away a substantive proposition must remain upon which action can be taken by the House. In other words, where an amendment is proposed containing two propositions where the House may reject one of them and then might agree to the other having a substantive proposition, the amendment is divisible, but that is plainly not this case. The House can not adopt this provision which the gentleman seeks to have voted upon separately and make any sense, "*Provided*, That no part thereof shall be paid to any Member, Delegate, or Resident Commissioner." *Provided*, That no part thereof shall be paid to any Member, Delegate, or Resident Commissioner." I will not say can not, because the House could agree to it; but it means nothing. It is not a substantive proposition by itself. It must, if agreed to by the House, come in with the main proposition making an appropriation and instead of being a substantive proposition it is a subsidiary proposition to the main proposition.

The Speaker² said:

Suppose the House were to vote down the first proposition and vote in the last proposition. Would there be any sense at all in the amendment? It is not divisible.

3166. A proposition to strike out various unrelated phrases may be resolved into a separate question for each proposed elision.

On February 13, 1918,³ the Committee of the Whole House on the state of the Union was considering the bill (H. R. 5667) to provide for the deportation of certain aliens, known as the alien slacker bill.

Mr. Richard Wayne Parker, of New Jersey, offered this amendment.

Page 1, line 3, after the words "that any alien," strike out the words "eligible by existing law to become a naturalized citizen"; also all of lines 4, 5, 6, 7, 8, and 9; and also the word "said," in line 11 after the words "exemption from"; also on page 2, line 3, strike out "and shall as soon as practicable be deported"; also strike out all of line 4 and the words "and deportation" in line 11, so that as amended the paragraph will read:

"That any alien who by himself or by anyone else has heretofore claimed, or shall hereafter claim, exemption from selective draft on account of being an alien, shall forever be denied the right of becoming a citizen of the United States or of any of its possessions.

"Any alien who may have been exempted from said selective draft on account of his alienage prior to the passage of this act may, within 60 days after the passage of this act, withdraw such

¹ Third session Sixty-fifth Congress, Record, p. 1697.

² Champ Clark, of Missouri, Speaker.

³ Second session Sixty-fifth Congress, Record, p. 2071.

exemption and submit himself to the operation of said selective draft, and in that event shall not be held to be within the operations of this section as to the forfeiture of citizenship.”

Mr. John E. Raker, of California, called for a separate vote on each proposed elision.

The Chairman ¹ sustained the demand for a division and ruled.

The Chair has looked into this in the limited time that he has had, and he is satisfied that the amendment is division. It strikes out language in four different places. One might be agreed to by the House and another defeated and still not interfere with the sense of the section. I see no reason why it should be held to be individuals when it is to strike out language in four places.

3167. Formerly a separate vote might be demanded on each substantive proposition reported by the Committee on Rules.

To warrant division of a question the propositions presented must be substantive and not merely grammatical.

On April 8, 1908, Mr. John Dalzell,² of Pennsylvania, from the Committee on Rules, submitted a report from that committee providing for the consideration of the naval appropriation bill.

The resolution provided that on the following Thursday the House should recess until the next calendar day; that on Friday the Speaker should declare the House in the Committee of the Whole House on the state of the Union for the consideration of the bill; that on Saturday and Monday, respectively, the Chairman of the Committee of the Whole should declare the Committee in recess until the succeeding legislative day; that general debate should close Saturday.

Consideration of the resolution having been concluded, Mr. John J. Fitzgerald, of New York, demanded a separate vote of five proposition in the resolution.

The Speaker³ directed the Clerk to read the resolution and announced there were but three substantive propositions on which a separate vote could be taken.

Mr. Fitzgerald submitted that the provisions for recess were distinct provisions and should be voted on separately.

The Speaker ruled:

Seemingly so, but in fact not so.

The Chair, on reexamination of the rule, is inclined to think that there are only three substantive propositions. The Chair is willing to admit that the question is somewhat close and that several clauses may be segregated, each of which makes a grammatical proposition but not a substantial proposition in the sense that it makes a substantive rule for action of the House. Thus, one or two clauses in what may fairly be considered the second portion make, it is true, grammatical propositions, but they do not make substantive propositions within the intent of the resolution which is to provide a rule of action. Thus those clauses provide for the Committee of the Whole to take a recess, but hardly make a substantive rule without the other clause, which provides that there shall be a Committee of the Whole at the time the recess is to be taken.

3168. Substitute resolutions offered as an amendment are not divisible.

On September 16, 1918,⁴ the Committee of the Whole House on the state of the Union had under consideration the bill H. R. 12863, the revenue bill.

Mr. Joseph Walsh, of Massachusetts, proposed an amendment in the nature of a substitute.

¹ Joseph J. Russell, of Missouri, Chairman.

² First session Sixtieth Congress, Record, p. 4510.

³ Joseph G. Cannon, of Illinois, Speaker.

⁴ Second session Sixty-fifth Congress, Record, p. 10370.

Mr. Charles R. Crisp, of Georgia, demanded a division of the substitute.

The Chairman¹ held that the substitute must be voted on as a whole and said:

The Chair will state that there would appear to be two substantive proposition possibly more, is his substitute; but the precedents of the House are that a substitute in the nature of an amendment to an amendment is not divisible. The Chair will not undertake to argue the reasons underlying these precedents, but will simply refer to the ruling found in section 6127, Volume V, of Hinds' Precedents to the following effect:

"Substitute resolutions offered as an amendment are not divisible."

This would be decisive of the request for a division of the substitute. The question is on the substitute in the nature of an amendment offered by the gentleman from Massachusetts.

3169. A motion to strike out and insert is indivisible either as to the two branches of the motion or the language proposed for insertion.

On May 27, 1929,² the bill H. R. 2667, the tariff bill, was under consideration in the Committee of the Whole House on the state of the Union.

Mr. Frank Crowther, of New York, offered a committee amendment proposing to strike out a paragraph in the leather schedule and insert in lieu thereof a paragraph embracing numerous sections and subsections.

Mr. William B. Bankhead, of Alabama, proposed a division of the matter to be inserted.

The Chairman³ reminded:

Under the rules of the House a motion to strike out and insert is indivisible.

Mr. Charles R. Crisp, of Georgia, raised the issue that while, under the rules, the two branches of a motion to strike out and insert were indivisible, the matter proposed to be inserted was subject to division.

The Chairman dissented and said:

Under the interpretation of the rule stated by the Chair, a motion to strike out and insert is indivisible, and the decisions sustain the plain language of the rule. The Chair has examined the decision of Speaker Orr, found in Hinds' Precedents, Volume V, section 6125, and the decision of Speaker pro tempore Dalzell, Volume V, section 6128, and they bear out the construction the Chair has given to the first part of clause 7 of Rule XVI. Of course there is a way by which the result which the gentleman is seeking may be obtained, and that would be to proceed to amend the committee amendment.

The Chair thinks the gentleman would be within the rule if he made the motion to amend any part of the committee amendment at any time, provided he was recognized for that purpose.

3170. A division of the question is not in order on a motion to recommit with instructions or on the different branches of the instructions.

On April 26, 1924,⁴ the joint resolution (H. J. Res. 184) proposing an amendment to the Constitution of the United States relating to the regulation of child labor was read a third time.

Mr. Andrew J. Montague, of Virginia, offered a motion to recommit the joint resolution to the Committee on the Judiciary with instructions to report it back forthwith with three unrelated amendments.

¹ Edward W. Saunders, of Virginia, Chairman.

² First session Seventy-first Congress, Record, p. 2014.

³ Earl C. Michener, of Michigan, Chairman.

⁴ First session Sixty-eighth Congress, Record, p. 7294.

Mr. C. William Ramseyer, of Iowa, submitted that the amendments presented three distinct substantive propositions and requested a separate vote on each of the three.

The Speaker¹ ruled:

The Chair does not think it is subject to a division.

That might be plausible if that were a new question, but it has been decided. Section 6134, Hinds' Precedents, volumn 5, says:

"A division of the question is not in order on a motion to commit with instructions or on the different branches of the instructions."

3171. On a motion to suspend the rules and pass a bill with amendments it is not in order to demand a separate vote on the amendments.

On February 26, 1909,² Mr. Mames A. Tawney, of Minnesota, moved to suspend the rules and pass the sundry civil appropriation bill with certain amendments.

Mr. John Sharp Williams, of Mississippi, proposed a division of the question on the amendments.

The Speaker³ held that the question should be taken on the motion in its entirety and a demand for a separate vote on the amendments was not in order.

3172. In voting on the engrossment and third reading and passage of a bill, a separate vote on the various propositions of the bill may not be demanded.

On May 21, 1930,⁴ the House was considering the joint resolution (H. J. Res. 331) reading as follows:

Resolved, etc., That the Congress of the United States of America expresses its approval of the action of the United States delegation at The Hague Conference on the Codification of International Law in voting against the "convention on certain questions relating to the conflict of nationality law."

Resolved further, That it is hereby declared to be the policy of the United States of America that there should be absolute equality for both sexes in nationality, and that in the treaties, law, and practice of the United States relating to nationality there should be no distinction based on sex.

Mr. William H. Stafford, of Wisconsin, being recognized to propound a parliamentary inquiry, called attention to the difference in the propositions presented by the two branches of the resolution and asked if under clause 6 of Rule XVI a separate vote on the respective questions presented could be had on the passage of the resolution.

The Speaker⁵ ruled:

The Chair is familiar with that rule, but he doubts if it applies to a case like this. The Chair is of opinion that this resolution can not be divided. The Chair finds in the Manual, section 775, this:

"In voting on the engrossment or passage of a bill or joint resolution a separate vote on the various portions may not be demanded."

These decisions before the Chair are very old, as old as 1856.

The Chair thinks you can not divide the question here.

¹ Frederick H. Gillett, of Massachusetts, Speaker.

² Second session Sixtieth Congress, Record, p. 3312.

³ Joseph G. Cannon, of Illinois, Speaker.

⁴ Second session Seventy-first Congress, Record, p. 9321.

⁵ Nicholas Longworth, of Ohio, Speaker.

3173. An order for the previous question does not preclude the demand for a separate vote on component substantive propositions.

Under the former provisions of the rule a separate vote could be demanded on each substantive proposition reported by the Committee on Rules.¹

On April 18, 1912,² the House was considering the resolution (H. Res. 444) reported from the Committee on Rules, as follows:

Resolved, That after the adoption of this rule it shall be in order in the consideration of H.R. 21279, a bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes, to consider the new legislation on said bill hereinafter mentioned notwithstanding the general rules of the House.

The resolution then quoted all sections of the bill carrying legislation subject to a point or order.

The previous question having been ordered on the resolution, Mr. James R. Mann, of Illinois, demanded a separate vote on various substantive propositions incorporated in the resolution.

Mr. Robert L. Henry, of Texas, raised a question of order and argued that the request for a division could not be entertained—first, because a report from the Committee on Rules was not susceptible to division; second, because a separate vote could not be requested after an order for the previous question was operating; and, third, because a division was not in order on the final passage of a bill or resolution.

Controverting the argument that a division was not in order after the previous question had been ordered on a report from the Committee on Rules, Mr. Mann said:

The question is whether after the previous question has been ordered on the report from the Committee on Rules, or a resolution providing that certain things shall be in order, the substantive propositions in that resolution shall be separated and voted upon separately.

The matter is not without precedents in the House. The Speaker will remember that at the first session of the Sixtieth Congress the Democratic side of the House, under the able leadership of Mr. Williams, of Mississippi, was conducting an open and avowed filibuster.

The Committee on Rules, on April 8, 1908, page 4505 of the Record, reported this rule as a privileged report, the report being made by the gentleman from Pennsylvania, Mr. Dalzell:

Resolved, That on this day and on Thursday of this week the House shall take a recess at 5 o'clock p.m. until 11.30 a.m. of the next calendar day; that on Friday, April 10, at 11.30 a.m., the Speaker shall declare the House in Committee of the Whole House on the state of the Union for the consideration of H.R. 20471, the naval appropriation bill; that at 5 o'clock p.m. on Friday, April 10, the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 a.m. on Saturday, April 11, the Chairman of the Committee of the Whole House on the state of the Union shall declare the committee in recess until 11.30 o'clock a.m. on Monday, April 13.

"That general debate on the naval appropriation bill shall close not later than at 5 o'clock p.m., Saturday, April 11; the time to be equally divided between the majority and minority and controlled by the chairman of the Naval Committee and by the senior member of the minority: *Provided*, That if general debate shall be concluded prior to 5 p.m. on Saturday the 11th, the Chairman of the committee of the Whole shall at once declare the committee in recess until Monday, April 13, at 11.30 a.m."

¹The rule as amended, May 3, 1933, now specifically excepts reports from the Committee on Rules from the provisions of the section.

²Second session Sixty-second Congress, Record, p. 5006.

On that report the gentleman from Pennsylvania demanded the previous question. The previous question was ordered. Twenty minutes' debate was had upon a side, precisely as has been the case in the present instance, with the exception that here the debate, by unanimous consent has been a little longer, and the Speaker will notice that that entire resolution which I have just read related to the same general subject matter, namely, the meeting of the Committee of the Whole House on the state of the Union on the consideration of the naval appropriation bill. When debate had concluded under the twenty-minutes-a-side rule, the gentleman from New York, Mr. Fitzgerald the most distinguished parliamentarian upon that side of the House, if not in the country, rose and said:

"Mr. Speaker, I ask for a division of the resolution."

And he called attention to the rule which I have just read. He was asked by the Speaker to state the different substantive propositions, which he proceeded to do. The gentleman from Pennsylvania made this statement:

"The resolution is nothing more nor less than a program of legislative proceeding, and it is absolutely impossible to make any distinction and take away a part of it."

But the Speaker, Mr. Cannon, who has at different times in the country, by different people, been accused of being a czar and of not giving the minority that fair treatment which they sometime insisted they should have—and I think I have heard the gentleman from Texas make such remarks—said:

"The Chair is prepared to rule. On a careful examination of this rule the Chair finds that there are five substantive propositions, and five only, so that if the gentleman demands a separate vote upon either or all of them a separate vote will be taken."

And a separate vote was taken.

In answer to the contention that a division was not in order on the final passage of the resolution, Mr. Mann argued:

Mr. Speaker, the gentleman from Texas first claimed that a division of this question is not in order, because on the final passage of a bill or resolution a division is not in order. No one on this side, I think, supposes that you can divide a bill into different parts on the final passage of the bill on a roll call. The gentleman then says that the proposition we now make is not applicable because it can only be applied when there are various resolving clauses in the resolution, and that if there were different resolving clauses in the resolution, then each of those resolving clauses would have a separate vote. First, Mr. Speaker, in the case which I have cited to you where the rule was made by Mr. Speaker Cannon there was but one resolving clause; and second, if the gentleman from Texas were familiar with the provisions of the Revised Statutes which are applicable to this subject he would know that a resolution which has more than one resolving clause was out of order, because the statutes adopted by this House and Senate jointly provided:

"No enacting or resolving words shall be used in any section of any act or resolution of Congress except in the first."

The gentleman's proposition seems to be now that you can not have a separate vote upon anything unless in the preparation of it you have violated the statutes. Now, Mr. Speaker, the case which the gentleman stated does not bear out his contention. In the resolution which was offered referred to by the gentleman there was a proposition to adopt the rules of the previous Congress as the rules of the Fifty-sixth Congress. Mr. Speaker Henderson then held that the different propositions in that resolution were separable, and that one could have a separate vote upon each proposition involved, but he held, and held properly, that a resolution to adopt the rules of a previous Congress by itself was not subject to be considered as containing different substantive propositions and did not authorize a separate vote upon each of the rules of the previous Congress. No one seriously ever claimed that a proposition in this Congress to adopt the rules of previous Congresses would authorize a separate vote upon each rule, but when there was coupled with that proposition another resolution expressly providing another rule, the Speaker held that they were subject to separation, because each was a substantive proposition. I hope and I believe that the present Speaker of this House will without question on this subject follow the ruling of Mr. Speaker Cannon, made in fairness at a time when the House was under great stress of feeling

and excitement, on the request of the gentleman from New York, at that time representing the Democratic side of the House, in his request. Then the Speaker divided into substantive propositions a resolution wholly relating to the question of meeting and adjournment. There is the resolution, the different parts of which have no relation whatever to each other. I contend that the House is entitled, in voting, to vote upon the separate propositions and is not compelled to carry out any bargain which may have been made by the supporters of the different propositions, of "you tickle me and I will tickle you," all at one time.

The Speaker ¹ ruled:

There are not very many precedents on this subject, one way or the other.

The two precedents cited from Speaker Henderson are really parts and parcels of one precedent. A division was demanded on a resolution. His first decision was that there should be a separate vote taken on each resolve. When that was through with, somebody undertook to divide the first resolve, and he held that could not be done.

The most elaborate precedent, and the last one, is that on page 4509, Congressional Record, first session of the Sixtieth Congress. The gentleman from Pennsylvania, Mr. Dalzell, reported a rule from the Committee on Rules. The gentleman from New York, Mr. Fitzgerald, demanded a division, claiming that there were seven substantive propositions in the rule. The gentleman from Pennsylvania took identically the same position then that the gentleman from Texas, Mr. Henry, takes to-day, and the gentleman from New York, took precisely the same position then that the gentleman from Illinois takes to-day. The gentleman from Illinois was himself mixed up in that debate. He seems to have agreed with the gentleman from New York on the proposition that a division could be had, but he differed from the gentleman from New York as to how many substantive propositions there were involved.

Mr. Speaker Cannon, after listening to the debate, decided that the division could be had.

So it seems to the Chair that the precedents are in favor of the contention of the gentleman from Illinois and against the point of order of the gentleman from Texas.

In addition to that, it seems to the Chair that the reason of the thing is the same way. There are several substantive legislative propositions embraced in this rule that have no connection whatever with one another. A Member might, and most probably would, be in favor of some and against others. He has a right to vote his sentiments on each, which he can not do if they are bunched together. Therefore the point of order is overruled, and the Clerk will report the first proposition.

3174. On April 27, 1932,² Mr. William B. Bankhead, of Alabama, from the Committee on Rules, called up the following resolution:

Resolved, That after the adoption of this resolution it shall be in order in the consideration of H.R. 11267, the legislative appropriation bill, for the chairman of the Economy Committee or any member of the Economy Committee acting for him, by direction of that committee, to offer an amendment to said bill, any rule of the House to the contrary notwithstanding. On said amendment there shall be two hours of general debate, one-half to be controlled by the chairman of the Economy Committee and one-half by the ranking member of that committee. At the termination of such debate the amendment shall be considered under the 5-minute rule as an original bill and shall be considered by titles. Each title as it is read shall be open to four amendments, said amendments not being subject to amendment, and no further amendments shall be entertained by the Chair. The provisions of clause 7, Rule XVI, or clause 2, Rule XXI, shall not apply to the substitute amendment offered to Title I of the Economy Committee amendment. At the conclusion of the consideration of the bill in the Committee of the Whole House on the state of the Union the committee shall rise and report the bill to the House with the amendments, including the amendment offered by the Economy Committee as amended, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the

¹ Champ Clark, of Missouri, Speaker.

² First session, Seventy-second Congress, Record, p. 9056.

Whole to the Economy Committee amendment. The previous question shall be considered as ordered on the bill and Economy Committee amendment, including the amendments to the Economy Committee amendment to final passage without intervening motion except two motions to recommit, and such motions to recommit shall be in order, any rule of the House to the contrary notwithstanding.

Debate having been concluded, the previous question was ordered on the resolution, when Mr. Clarence Cannon, of Missouri, requested a separate vote on the following paragraph:

Each title as it is read shall be open to four amendments, said amendments not being subject to amendment, and no further amendments shall be entertained by the Chair.

Mr. John Q. Tilson, of Connecticut, raised the question of order that the resolution was not divisible.

The Speaker¹ ruled:

The gentleman from Missouri has asked for a division of the resolution. It occurs to the Chair that if the provision that the gentleman from Missouri has suggested is voted out there will be a complete special rule remaining. So it seems to the Chair it comes within the spirit of the rule.

An examination of this particular rule shows that it contains a number of substantive propositions. In a ruling made by Mr. Speaker Cannon on April 8, 1908 (Record, p. 4509), he said:

"The Chair is prepared to rule. On a careful examination of this rule, the Chair finds that there are five substantive propositions and five only, so that if the gentleman demands a separate vote upon either or all of them, a separate vote will be taken."

The rule is quite specific. It provides that if there is a substantive proposition left a Member is entitled to a division.

The Chair overrules the point of order.

3175. On the question of agreeing or disagreeing to a Senate amendment it is not in order to demand a division so as to vote separately on different portion of the amendment.

On February 25, 1919,² Mr. S. Hubert Dent, of Alabama, called up the conference report on the bill (H. R. 13274) to provide relief where formal contracts have not been made in the manner required by law.

The committee of conference having reported that they were unable to agree, Mr. Dent moved that the House further insist on its disagreement to the pending Senate amendment.

Mr. Thomas W. Harrison, of Virginia, as a parliament inquiry, asked if it would be in order to move to concur in a portion of the Senate amendment and disagree to the remainder.

Mr. James R. Mann, of Illinois the inquiry, said:

Mr. Speaker, it is not in order to concur in a part of the Senate amendment with an amendment. The House must by its action in the end dispose of the Senate amendment. The House can concur in the Senate amendment with an amendment, or it can insist upon its disagreement to the Senate amendment, but it can not concur in a part of the Senate amendment with an amendment. It must act upon the whole amendment.

¹ John N. Garner, of Texas, Speaker.

² Third session Sixty-fifth Congress, Record, p. 4257.

The gentleman's suggestion was with reference to section 7 of the Senate amendment. The Senate made one amendment to the entire bill. The action taken by the House, whatever it may be, must be upon the entire amendment. Of course we can concur in the Senate amendment, with an amendment striking out all of the Senate amendment and inserting what the House thinks should be inserted, but you can not concur in a part of the Senate amendment.

The Speaker ¹ said:

The gentleman from Illinois has answered the inquiry of the gentleman from Virginia, and the Chair concurs in his answer.

3176. Before the stage of disagreement is reached the motion to concur with an amendment is not divisible.

On June 10, 1912,² the House had under consideration Senate amendments to the bill H. R. 18642, a tariff bill fixing the metal schedule.

Mr. George W. Norris, of Nebraska, moved to concur in the Senate amendment to section 2, repealing certain clauses in existing law and placing a duty of \$2 a ton on a paper with an amendment striking out the duty of \$2.

Mr. Joseph G. Cannon, of Illinois, requested a division of the question with separate votes on concurrence and on agreeing to the proposed amendment.

Mr. Oscar W. Underwood, of Alabama, made the point of order that prior to disagreement the motion to concur with an amendment was not divisible.

The Speaker ¹ held:

The proposition to concur with an amendment is the first proposition to be voted on.

The feature of the proposition of the gentleman from Nebraska that makes his motion preferential, and also the other motion, is the feature of concurring with an amendment. The Chair sustains the point of order made by the gentleman from Alabama. The question is on the motion of the gentleman from Nebraska to concur with an amendment.

¹ Champ Clerk, of Missouri, Speaker.

² Second session Sixty-second Congress, Record, P. 7937.